

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	John F. Grady	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	02 C 1238	DATE	February 12, 2003
CASE TITLE	Mitsubishi v. Thompson Tool & Manf Co		

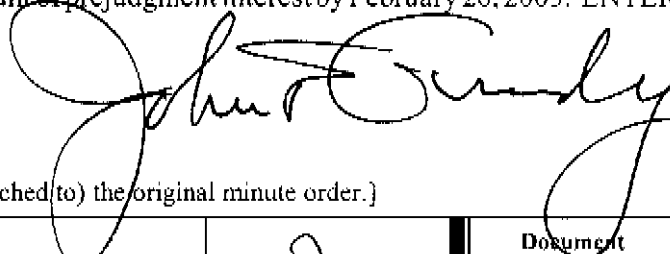
[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

MOTION:

DOCKET ENTRY:

- (1) ☐ Filed motion of [use listing in "Motion" box above.]
- (2) ☐ Brief in support of motion due _____.
- (3) ☐ Answer brief to motion due _____. Reply to answer brief due _____.
- (4) ☐ Ruling/Hearing on _____ set for _____ at _____.
- (5) ☐ Status hearing[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
- (6) ☐ Pretrial conference[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
- (7) ☐ Trial[set for/re-set for] on _____ at _____.
- (8) ☐ [Bench/Jury trial] [Hearing] held/continued to _____ at _____.
- (9) ☐ This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to]
☐ FRCP4(m) ☐ General Rule 21 ☐ FRCP41(a)(1) ☐ FRCP41(a)(2).
- (10) ☒ [Other docket entry] Plaintiff/counter-defendant's motion for summary judgment on its first amended complaint and on defendant's counterclaim [18-1, ____] is granted. The parties are requested to submit an appropriate judgment order, containing the proper amount of prejudgment interest by February 26, 2003. ENTER MEMORANDUM OPINION.

- (11) ☒ [For further detail see order (on reverse side of/attached to) the original minute order.]

<input type="checkbox"/> No notices required, advised in open court.		2	Document Number 28
<input type="checkbox"/> No notices required.		number of notices	
<input type="checkbox"/> Notices MAILED by judge's staff.		date docketed	
<input type="checkbox"/> Notified counsel by telephone.		deleting deputy initials	
<input checked="" type="checkbox"/> Docketing to mail notices.		date mailed notice	
<input type="checkbox"/> Mail AO 450 form.			
<input type="checkbox"/> Copy to _____			
KAM	courtroom deputy's initials	12001 JOHN F. GRADY FEB 12 2003 Date/time received in central Clerk's Office	mailing deputy initials

(Reserved for use by the Court)

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

DOCKETED

FEB 13 2003

MITSUBISHI HEAVY INDUSTRIES)
AMERICA, INC.,)

Plaintiff/Counter-defendant,)

v.)

THOMPSON TOOL & MANUFACTURING)
COMPANY, INC.,)

Defendant/Counter-plaintiff.)

No. 02 C 1238

Hon. John F. Grady

MEMORANDUM OPINION

The court has considered the memoranda and other materials submitted by the parties on plaintiff counter-defendant Mitsubishi Heavy Industries America, Inc.'s motion for summary judgment on its first amended complaint and defendant's first amended counterclaim. There may be a factual issue as to plaintiff's holder in due course claim contained in Count II of its complaint, and we decline to grant plaintiff summary judgment on that claim. However, we are satisfied that there is no genuine issue of material fact as to plaintiff's breach of contract claim contained in Count I of its complaint. Although there were problems with the machine as delivered in the first instance, the parties agreed to a reduction of the purchase price, the performance of certain repairs by the

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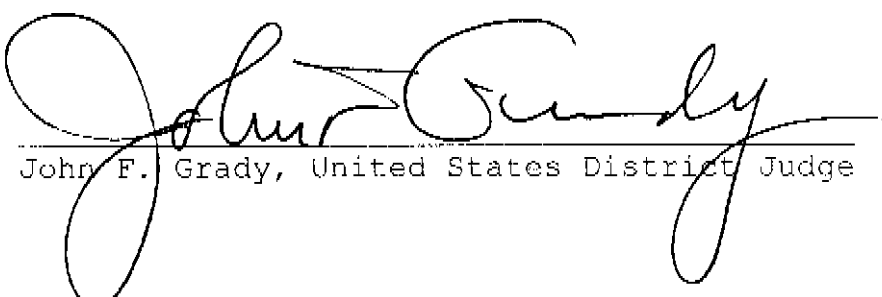
plaintiff and an extension of the warranty period. This resulted in an accord and satisfaction. There is no question as to the terms of the accord and satisfaction, because they are clearly set forth in the signed correspondence of the parties, Plaintiff's Statement of Material Facts, ¶ 12, Tab 3. Defendant's president even sent a letter dated June 29, 2001 acknowledging that as of that time there were "no unresolved issues with the machine" and that defendant owed plaintiff the balance of \$175,000. Id. at Ex. 6.

The accord and satisfaction also resolves the defendant's counterclaim.

Plaintiff's motion for summary judgment will be allowed on both its complaint and defendant's counterclaim.

Date: February 12, 2003

ENTER:


John F. Grady, United States District Judge